



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

CRAWFORD C. MARTIN  
ATTORNEY GENERAL

October 18, 1972

Hon. John A. Traeger, Chairman  
House Interim Committee on Creation  
and Operation of Water Districts  
P. O. Box 100, Capitol Station  
Austin, Texas 78767

Opinion No. M- 1238

Re: Does the Texas Elec-  
tion Code apply to  
water district elec-  
tions?

Dear Representative Traeger:

Your recent letter requesting the opinion of this  
office poses the following question:

"Does the Texas Election Code apply to water  
district elections?"

Article 1.01, Texas Election Code, in expressing its  
scope and applicability, provides as follows:

"The aim in adopting this Code is to state  
in plain language the laws governing the nomina-  
tion and election of officers and of holding other  
elections, to simplify, clarify and harmonize the  
existing laws in regard to parties, suffrage,  
nominations, and elections, and to safeguard the  
purity of the ballot box against error, fraud,  
mistake and corruption, to the end that the will  
of the people shall prevail and that true demo-  
cracy shall not perish from the Lone Star State.  
To that end the provisions of this Code shall  
apply to all elections and primaries held in this  
State, except as otherwise provided herein."  
(emphasis added.)

Section 50.002, Texas Water Code (Acts 62nd Leg.,  
R.S., 1971, ch. 58, pp. 110 et seq.), dealing with election  
procedures in the various types of general law water districts,

reads:

"The qualifications of voters in district elections are as specified in the state and federal constitutions and the procedures for conducting elections and for voting are as specified in the Texas Election Code except as otherwise provided in this title."

Other portions of the Texas Water Code provide specific election procedures for various types of water districts.

The law is well settled that the provisions of the general law, i.e., the Texas Election Code, apply to water districts when not inconsistent with the specific acts of their creation (e.g., Art. 8280-101, et seq., V.C.S.) or other controlling special laws. When specific provisions of the general law, if given effect, would nullify or modify specific provisions of a special act concerning particularized rights and duties of districts, the latter provisions must prevail over those of the general law. Hidalgo County Water Co. & Imp. Dist. No. 1 v. Hidalgo Co., 134 S.W.2d 464, 467 (Tex.Civ.App. 1939, error ref.); Schrock v. Hylton, 133 S.W.2d 175, 177 (Tex. Civ.App. 1939, no writ); and Shaw v. Taylor, 146 S.W.2d 452, 454 (Tex.Civ.App. 1940, no writ).

In view of the foregoing, you are advised that the provisions of the Texas Election Code are applicable to water districts, provided said Code is not inconsistent with either the election procedures set forth regarding such districts in either the Texas Water Code or special statutes creating or relating to such districts. To the extent of any inconsistency between the Election Code and the Water Code, or a special statute relating to a water district, the latter will prevail over the former.

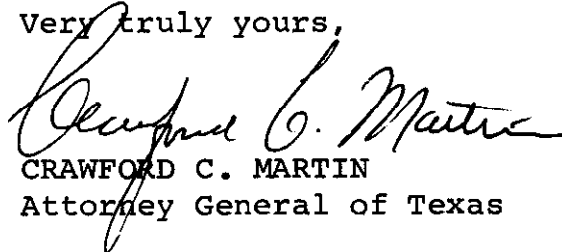
#### S U M M A R Y

The provisions of the Texas Election Code are applicable to water districts, provided that such provisions are not inconsistent with the election

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procedures set forth in either the Texas Water Code or the special statutes controlling the districts. If there is an inconsistency between the Texas Election Code and the Texas Water Code, or a special statute relating to a water district, the latter will prevail over the former to such extent.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Crawford C. Martin", is written over the typed name and title.

CRAWFORD C. MARTIN  
Attorney General of Texas

Prepared by Austin C. Bray, Jr.  
Assistant Attorney General

APPROVED:  
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